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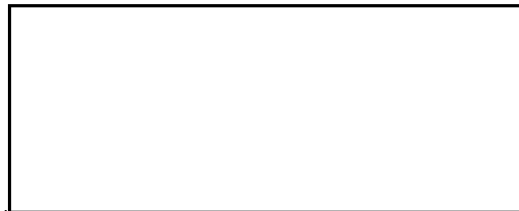
18 March 1970

MEMORANDUM FOR THE RECORD

SUBJECT: Retirement Act Disability Provision

1. The Director of Personnel has proposed that our Retirement Act disability provision be amended to conform to the restored earning capacity proviso for terminating such annuities to conform to the Civil Service provision. Since our Act's present provision was developed from the Foreign Service system, I asked Robert Hull, Department of State, whether they had ever considered a similar change. He said that it had been considered, but no action taken. He said it would only apply to very few cases, but recognized the merits of the Civil Service provision, particularly in view of the fact that Foreign Service disability annuities are tax exempt.

2. On another subject, Hull said that if we are preparing a new legislative package he hopes for its success so they could ride our coattails. He said their pointing out our success to their committees was instrumental in passage of a Daniels/McGee benefits amendment for the Foreign Service. I told him that I was sure that Mr. Helms was glad to be of help.



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Assistant Legislative Counsel

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PROPOSED AMENDMENTS TO THE CIA RETIREMENT ACT OF 1964

Item	Purpose	Remarks
1. Repeal the present limitation of 400 retirements from 1 July 1969 through 30 June 1974.		In view of the anticipated number of mandatory retirements during this period, and based on the experience factor in projecting voluntary retirements, the quota will expire prior to the cut-off date of 30 June 1974.
2. Raise eligibility age for student survivor annuitant from 21 to 22 and increase authorized maximum absence from school from 4 to 5 months.		This change will permit our Act to be consistent with the current provisions of the Civil Service Law.
3. Clarifies commencement and termination date for child survivor annuity.		This is a minor amendment to bring the section in line with existing Civil Service provisions for the commencement and termination dates for a child survivor annuity and assures that the survivor annuity of a student may be granted even though it previously had been terminated. Under existing authority, once an annuity had been terminated because of an absence between school terms in excess of the maximum absence authorized, the annuity could not be resumed. Many legitimate interruptions such as compulsory military service, sickness, or interim full-time employment, would require absence from school for a period of time. A similar technical amendment to the Civil Service Retirement Act was approved by the 89th Congress.

Item	Purpose	Remarks
4.	Authorize annuity for retiree to begin as soon as he enters non-pay status.	This is a technical change to authorize the commencement of annuities and payment from the retirement fund as soon as the individual enters a non-pay status. Under the present CIA Retirement and Disability System, an annuitant who is fully qualified to retire and receive an immediate annuity must wait until the beginning of the month following his date of separation from the service to be eligible for such annuity. In an agency such as CIA where employees may be members of either of two separate retirement systems, a difference in so simple a matter as the beginning date of the annuity is a confusing one. The proposed change would conform the CIA Retirement System to the Civil Service Retirement System with respect to the beginning date of the annuity. In addition it would avoid the inconvenience to employees who are eligible and desire to retire earlier than the last day of the month.
5.	Permit direct transfer of retirement funds - employee and Government - from other retirement funds to the CIARDS and from the CIARDS to other funds.	The "Transfer of Contributions" provision authorizes the transfer of <u>employer</u> contributions to the Government retirement fund from which the employee will receive his retirement benefits. At present, when an individual transfers into the CIA Retirement and Disability System from some other Government retirement system, there is provision for the transfer of the <u>employee's</u> contributions from the other Government retirement fund to the CIA fund, but there is no provision for transfer of the contributions made by the <u>Government</u> to such fund on the employee's behalf.

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Item	Purpose	Remarks
		<p>Further, there is at present no provision for the transfer of an employee's contributions from the CIA retirement fund to some other Government retirement fund in the event he changes employment. The result is that if an employee wishes to obtain credit for his prior Government service, he must obtain a refund of his contributions and any interest applicable thereto, pay tax on such interest, and then re-purchase service credit on the basis of his contributions plus the applicable interest rate under the retirement system which he has entered. In certain situations this could result in tax cost to the individual. In any event, it is a cumbersome problem. In addition, it denies to the receiving retirement system the benefit of the Government's contributions toward the retirement benefits ultimately to be granted to the employee. The proposed change would correct the inequity to the employee and make it possible for the Government's contributions toward his retirement to be credited to the Government retirement fund from which his retirement benefits will ultimately be paid. It is intended that this provision apply to all employees who have been transferred into the CIA Retirement and Disability System as well as those to be transferred out.</p>

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Item	Purpose	Remarks
6.	Authorize the CIA annuitant who is reemployed in the Federal Government to retain the salary of the new position plus so much of his annuity which when added to his new salary will not exceed his salary at the time of retirement.	This provision will authorize an annuitant who has retired from the Agency to be reemployed in the Government and to retain the salary of the new position, plus so much of his annuity, which when added to the new salary, does not exceed the salary at the time of retirement. Under the present Agency authority, for example, if one of our GS-13 (salary of \$15,812) retires with an annuity of \$6,000 and then enters other Federal employment at the GS-11 level, (\$11,233), he would actually receive only \$5,233 for his services. The provision which we propose would permit him to receive the full salary of his GS-11 position plus so much of his annuity as does not exceed salary at time of retirement. Thus, this amendment would permit this retiree to receive his earned salary of \$11,233 plus \$4,579 of his \$6,000 annuity bringing him up to his previous salary level of \$15,812. The practical effect is to authorize the individual who is seeking less strenuous work and does not want to return overseas to retire voluntarily--or involuntarily--and to find other Federal employment, possibly at a grade or more below his salary, but which when coupled with his retirement annuity will maintain his standard of living. As he rises in his new employment, the retirement annuity will be eliminated on his again reaching his former salary level. We feel that our retirees, with few exceptions, need to seek a second career and

Item	Purpose	Remarks
		may well desire such a career elsewhere in Government. CIA employees do not acquire status in the competitive service, however, and much of their experience and competence cannot readily be related to normal Government positions. The total offset of annuity upon reemployment in Government service, as it is now required tends to limit second career employment opportunities for CIA retirees to the private sector. It thus tends to deny to the Government, the services of individuals who, even though they have completed their CIA careers, are highly competent. Retirees under the CIA Retirement and Disability System have earned their annuities at the time when they retire. This principle appears to have been established for the Reserve military officer, and more recently, the retired regular military officer, and for the retired Foreign Service Officer. With respect to retired military officers, I would like to note that a reservist can retain both his civilian salary and his entire annuity, and a regular officer can retain his salary plus the first \$2,359.87 of his annuity and 50% of the balance thereof.

Item	Purpose	Remarks
7.	Require an agency which employs a CIARDS annuitant to notify CIA of such employments.	If item 6 is approved, this provision will be required so that appropriate adjustment can be made in the retiree's annuity.
8.	Provide an option to participant who has prior creditable non-deduction service to use the time in computing his annuity but reduce the annuity by ten percent of the sum due to cover the service if he decided not to make the deposit.	Under current provisions of the CIARDS law, both refund service and non-deduction service must be covered by contributions to the fund in order for the time to be counted in computing the annuity. This change will permit our Act to be consistent with the provisions of the Civil Service law.
9.	Permit application for disability retirement within one year from date of separation (provided participant did not withdraw funds from CIARDS). If participant was mentally incompetent at the time of separation or within one year thereafter, time limit may be waived.	This provision will permit our Act to be consistent with the Civil Service law.
10.	Eliminate requirement that step-child or recognized natural child be dependent upon retiree to qualify for survivor annuity.	This change makes our provision consistent with the Civil Service law.
11.	Permit a natural child and an adopted child, but not a step-child, to share in the distribution of any money (Lump-sum) left in the CIARDS fund.	To define the term "child." This definition is consistent with the Civil Service law.

Item	Purpose	Remarks
12.	Change in eligibility age for a deferred annuity from age 62 to 60.	This change will conform to the Foreign Service Act rather than the Civil Service Retirement Act. It appears logical, however, that since the Agency's Retirement System provides for mandatory retirement at age 60, the deferred annuitant under that System should begin receiving his annuity at that age.
13.	Discontinuance of the disability annuity payment if the earning capacity is restored.	Even if he remains totally disabled, an annuitant whose earning capacity is restored before he reaches age 60 will have his annuity discontinued. Earning capacity is considered restored if in each of 2 consecutive calendar years the annuitant's income from wages or self-employment, or both, is at least 80 percent of the current salary of the position from which he retired.

N.B. Item 4 on document originated by OLC concerning proposed amendments to the CIARDS law should be withdrawn. P.L. 91-185 contains a similar provision.

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